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Amendment
Attorney Docket No. E14.2B-9861-US01

Remarks

Claim Objections

Claims 2-4, 6 and 10-14 have been objected to under 37 C.F.R. §1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Office Action asserts that claims 2-4 and 11 limit the gas generated by the composition of claim 1 or the composition itself, but that the composition has not been positively recited in claim 1 and is not therefore required by the claim.

The Office Action further asserts that with respect to claims 6, 10 and 12-14, the container of claim 1 has not been positively recited so attempts to further limit the container are improper.

Claim 1, from which claims 2-4, 6 and 10-14 depend, has been amended to positively recite "a container permeable to water or water vapor, holding a composition which generates an antimicrobially active gas upon exposure to water or water vapor."

Thus, claim 1 now provides proper antecedent basis for further limitations on the container, composition or gas.

No new matter has been added.

Applicants have canceled claims 2, 6 and 12.

Applicants respectfully request withdrawal of the objection to claims 3-4, 10-11 and 13-14.

Claim Rejections

35 U.S.C. §112, second paragraph

Claims 15-17 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action asserts that "[i]n claim 15, 'the refrigeration unit' lacks positive antecedent basis as no such element has been recited in claim 1. In claim 16, both 'sachet holder' and 'said refrigeration unit' lack positive antecedent basis for the reason above. In claim 17, both 'said drawer' and 'the sachet' lack positive antecedent basis for the reason above."

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Claims 15-17 have been amended.

Claim 15 has been amended to correctly refer to the unit of claim 1.

Claim 16 has been amended to depend from claim 14.

Claim 17 has been canceled.

No new matter has been added.

Applicants respectfully request withdrawal of the rejection of claims 15-17 under 35 U.S.C. §112, second paragraph.

35 U.S.C. §102(b)

Claims 1-4, 11, 14 and 15 have been rejected under 35 U.S.C. §102(b) as being anticipated by Dickson (U.S. Patent No. 4,059,048).

The Office Action notes that the phrase "to permit placement....to water or water vapor" is considered to be an intended use of the access port and does not provide positive antecedent basis for further limitations on the container, composition or gas.

Applicants have amended claim 1 to positively "a container permeable to water or water vapor, holding a composition which generates an antimicrobially active gas upon exposure to water or water vapor." Thus, claim 1 now provides proper antecedent basis for further limitations on the container, composition or gas.

The Office action asserts that "Dickson teaches a unit 10 (silo) having an access port 30 openable from the exterior of the unit and a holder 47 for sachets 49, wherein the holder 47 retains the sachets 49 within the unit at a location exposed to the ambient air within the interior. The sachets 49 each contain a solid which generates a gas upon exposure to moisture."

Claim 1 has been amended to recite that the unit claimed therein include a container permeable to water or water vapor, holding *a composition which generates an antimicrobially active gas which is a halogen or chlorine dioxide upon exposure to water or water vapor.*

Applicants submit that Dickson describes a means for storing and fumigating bulk agricultural goods such as grains (Field of the Invention). The method and apparatus utilizes a solid chemical such as commercially available for producing phosphine gas (Summary of the Invention, 1st line). Dickson fails to suggest the use of either halogen or chlorine dioxide gas for

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storing and fumigating bulk agricultural goods such as grains.

Applicants therefore submit that claim 1 as amended is not anticipated by Dickson.

Claim 2 has been canceled.

Claims 3-4, 11, 14 and 15 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable. Applicants respectfully request withdrawal of the rejection of claims 1-4, 11, 14 and 15 under 35 U.S.C. §102(b) as anticipated by Dickson (U.S. Patent No. 4,059,048).

Claims 1, 5 and 20 have been rejected under 35 U.S.C. §102(b) as being anticipated by Meyler et al (U.S. Patent No. 5,225,172). The Office action asserts that "Meyler et al teaches a unit 10 comprising an enclosed space and having an access drawer 20 for holding items therein at a location exposed to the ambient air within the interior of the unit. The unit 10 of Meyler et al is disclosed to be used for "storing small articles." Webster's II New Riverside University Dictionary defines "closet" as a "small room, cabinet, or recess for storage." Given this teaching, the unit of Meyler et al meets the broadest, reasonable interpretation of the term "closet".

Applicants have amended claim 1 which now recites a unit having an enclosed space not easily accessible for cleaning and deodorizing, having an interior and an exterior, the unit having *a container permeable to water or water vapor, holding a composition which generates an antimicrobially active gas which is a halogen or chlorine dioxide upon exposure to water or water vapor*, an access port in the unit openable from the exterior of the unit to permit placement and replacement of the container and a holder for the container, accessible through the access port, which retains the container within the interior.

Applicants submit that Meyler et al. describe an apparatus for sterilizing and storing small articles that utilizes two sterilizing factors being ultraviolet rays with a 2573 angstrom wavelength and ozone (Summary of the Invention, lines 19-22). Meyler et al. describe the sterilizing mechanism as the following:

The sterilizing mechanism 18 includes a concave reflector 26 mounted within the housing 14 above the drawer 20. A quartz lamp 28 is mounted within the housing 14 below the reflector 26. A timer 30 is electrically connected to the quartz lamp

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28. A micro-switch 32 is electrically connected between the timer 30 and a power supply 34. The micro-switch 32 is mounted within the housing 14 and will close when the drawer 20 is moved inwardly into the housing 14, thereby activating the timer 30 to turn on the quartz lamp 28 for a predetermined amount of time, to produce ultraviolet rays 36 with a 2573 angstrom wavelength, which are reflected by the reflector 26 into the drawer 20 produce ozone 38 about the at least one small article 12 within the drawer 20 for sterilization thereof.

Col. 2, lines 15-29.

Applicants submit that there is nothing in Meyler et al. to suggest the use of a *container permeable to water or water vapor which holds a composition which generates an antimicrobially active gas which is a halogen or chlorine dioxide upon exposure to water or water vapor* for cleaning and deodorizing a unit as recited in claim 1.

In order to sustain a rejection under 35 U.S.C. §102(b), the reference must meet all of the limitations of the claim being rejected. Applicants submit that Meyler et al. fails to suggest at least one element of amended claim 1. Thus, claim 1 is patentable over Meyler et al. Claims 5 and 20 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable.

Applicants respectfully request withdrawal of the rejection of claims 1, 5 and 20 under 35 U.S.C. §102(b) as anticipated by Meyler et al., U.S. Patent No. 5,225,172.

Claims 1, 5, 16, 18 and 19 have been rejected under 35 U.S.C. §102(b) as being anticipated by Comeau, II (U.S. Patent No. 5,901,564). The Office Action asserts that "Comeau, II teaches a unit 119 (refrigerator) including an access drawer 118 accessible from the exterior of the unit. See Figure 3."

Applicants have amended claim 1 as discussed above. Claim 1 now positively recites "*a container permeable to water or water vapor, holding a composition which generates an antimicrobially active gas which is a halogen or chlorine dioxide upon exposure to water or water vapor.*"

Applicants submit that Comeau, II discloses a device for disinfecting food stored in a refrigerated compartment, utilizing radiation emitted in the ultraviolet wavelengths between 200 and 300 nanometers emitted by a lamp. See Abstract.

Applicants submit that there is nothing in Comeau, II to suggest the use of a *container permeable to water or water vapor, holding a composition which generates an*

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antimicrobially active gas which is a halogen or chlorine dioxide upon exposure to water or water vapor for cleaning and deodorizing a unit as recited in claim 1.

As required by 35 U.S.C. §102(b), the reference must meet all of the claim limitations of the rejected claims. Applicants submit that Comeau, II fails to disclose at least one of the elements of claim 1 as amended. Claims 5, 16, 18 and 19 depend from claim 1 and are patentable for at least the reasons that claim 1 is patentable.

Based on the foregoing, Applicants respectfully request withdrawal of the rejection of claims 1, 5, 16, 18 and 19 under 35 U.S.C. §102(b) as being anticipated by Comeau, II, U.S. Patent No. 5, 901, 564.

35 U.S.C. §103(a)

Claim 10 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Dickson. The Office Action asserts that "[a]lthough Dickson does not specifically teach that the sachets 49 hold from about 50 to about 500 g of the composition, it is deemed obvious to provide an amount suitable to achieve fumigation of the unit."

As discussed above, claim 1 has been amended to recite an antimicrobially active gas not suggested for use by Dickson. Claim 10 depends from claim 1 and is patentable for at least the reasons that claim 1 is patentable. Applicants respectfully request withdrawal of the rejection of claim 10 under 35 U.S.C. §103(a) as being unpatentable over Dickson.

Allowable Subject Matter

Claims 6-8, 12, 13 and 17 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicants have added new claim 21 which includes the limitations of claim 6 and claim 1 from which it depends. Claim 6 has been canceled and claims 7 to 8 have been amended to depend from claim 21.

Applicants have added new claim 22 which includes the limitations of claim 12 and claim 1 from which it depends. Claim 12 has been canceled and claim 13 has been amended to depend from claim 21.

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Applicants have added new claim 23 which includes the limitations of claim 17 and claim 1 from which it depends. New claim 24 depends from claim 23. Claim 17 has been canceled.

No new matter has been added.

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CONCLUSION

Claims 1 and 3-20 are pending in the application. Applicants have addressed each of the issues presented in the Office Action. Based on the foregoing, Applicants respectfully request reconsideration and an early allowance of the claims as presented. Should any issues remain, the attorney of record may be reached at (952)563-3011 to expedite prosecution of this application.

Respectfully submitted,

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